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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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William J. Byrne

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EXAMINER

ELAHEE, MD S

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

09/15/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/934,121

**Applicant(s)**

BYRNE ET AL.

**Examiner**

MD S. ELAHEE

**Art Unit**

2614

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-18 and 56-89 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 and 56-89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-144a or PTO-804a)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Interval Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This action is responsive to an amendment filed on 06/17/2009. Claims 10-18 and 56-89 are pending. Claims 1-9 and 19-55 have been previously cancelled. Claim 89 has been newly added.

***Response to Arguments***

2. Applicant's arguments filed on 06/17/2009 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 74-82, 87 and 88 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would

result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

5. Claims 74 and 87 recite a tangible computer usable medium having stored thereon computer-executable instructions that, if executed by a computing device, cause the computing device to perform a method. Claim language does not comply with the requirements of MPEP 2106.01.I. The “computer usable medium” is only recited once in the invention disclosure (Preamble of Claims 74 and 87. Since the “computer usable medium” is not defined in the disclosure, it may encompass a variety of media ranging from a piece of paper to a carrier wave/signal, communication or transmission type of medium. Claims 74 and 87 fail to include practical application that produces either (1) tangible, concrete and useful result or (2) physical transformation. Therefore, since the claimed computer usable medium is not defined in the specification and it may encompass a variety of media ranging from a piece of paper to a carrier wave/signal, communication or transmission type of medium, the medium can not comprise instructions to cause a processor to perform the specifying, storing and generating functions of the claims then the Applicant has not complied with 35 U.S.C 101. Since claims 75-82 and 88 are dependent claims, these claims are also rejected.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 74-82, 87 and 88 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation “a tangible computer usable medium having stored thereon computer-executable instructions that, if executed by a computing device, cause the computing device to perform a method” of claim 74 in lines 1-3, are not disclosed in the original specification.

Claim 87 is rejected for the same reasons as discussed above with respect to claim 74. Since claims 75-82 and 88 are dependent claims, these claims are also rejected.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
11. Claims 10, 56, 65, 74 and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. (U.S. 2005/0091056) in view of Crawford (U.S. Patent No. 5,805,784).

Regarding claims 10, 74 and 89, with respect to Figures 1-3, Surace teaches a method of providing a voice user interface for a user comprising:

Presenting an input interface to enable the subscriber/developer [i.e., user] to specify personality information [i.e., character traits] wherein selecting a consistent personality for a virtual host based on the specified character traits (fig.3; page 3, paragraphs 0041-0046, 0048-0050, page 8, paragraph 0102, page 9, paragraphs 0112, 0113);

Surace further teaches storing, at a computing device, the specified personality information in a user profile having preference information for an actor [i.e., user] (page 8, paragraph 0103, page 9, paragraphs 0112, 0113, page 12, paragraphs 0145-0147, 0149) (Note; In fig.3, at step 304, the developer selects the personality type, at step 306, an actor with the

required personality is chosen, at step 316, the actor records the prompt, after the prompt is recorded, the consumer calls into the system and the recorded prompt is generated (with the required personality) and played back to the consumer. Therefore, it is clear that the developer stores the selected personality type on a profile and then virtual host is generated using the selected personality type (see page 12, paragraphs 0145-0147,0149).); and

Surace further teaches generating the virtual assistant with the consistent personality in accordance with the specified personality information (fig.1, 3; page 2, paragraph 0029, page 3, paragraph 0049, page 7, paragraph 0092, page 8, paragraph 0102).

Surace further teaches that the consistent personality defines updating [i.e., adjustments] the prompt of the virtual host (page 8, paragraphs 0102, 0103). However, Surace does not specifically teach that the consistent personality defines adjustments to one or more interface features. Crawford teaches that the consistent personality defines adjustments to one or more interface features (col.13, lines 14-24). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace to incorporate the feature of the consistent personality to define adjustments to one or more interface features as taught by Crawford. The motivation for the modification is to do so in order to provide a customized profile for a user based on the need.

Claim 56 is rejected for the same reasons as discussed above with respect to claim 10. Furthermore, Surace teaches with respect to Figures 1-3, Surace teaches a method of providing a voice user interface to an end user comprising:

receiving specified personality information [i.e., character traits] from a communication device associated with a login identifier (fig.3; page 3, paragraphs 0041-0046, 0048-0050, page 8, paragraph 0102, page 9, paragraphs 0112, 0113, page 13, paragraph 0155);

storing, at a computing device, the specified character traits in a profile corresponding to the login identifier (page 8, paragraph 0103, page 9, paragraphs 0112, 0113, page 12, paragraphs 0145-0147, 0149, page 13, paragraph 0155);

sending a dialogue to the communication device using a conversational style consistent with the adjusted one or more interface features (fig.3; page 8, paragraphs 0102, 0103).

Claim 65 is rejected for the same reasons as discussed above with respect to claim 56. Furthermore, Surace teaches a memory (fig.1, item101, fig.2, item 201); and

a processor (fig.1, item105, fig.2, item 211) operable to process logic (page 2, paragraph 0032).

12. Claims 11, 57, 66 and 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. in view of Crawford further in view of Staples et al. (U.S. Patent No. 6,301,339).

Regarding claims 11, 57, 66 and 75, Surace, as applied to claims 10, 56, 65 and 74, in view of Crawford fails to teach “information defining a tone of voice for the virtual host”. Staples teaches information specifying [i.e., defining] the tones for the client software [i.e., virtual host] (col.41, lines 48-67, col.42, lines 1-10). Thus, it would have been obvious to one of



ordinary skill in the art at the time the invention was made to modify Surace in view of Crawford to allow information defining a tone of voice as taught by Staples. The motivation for the modification is to have the information defining a tone of voice in order to provide the specific characteristic.

13. Claims 12, 58, 67 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. in view of Crawford further in view of Sakurai et al. (U.S. Patent No. 5,189,702).

Regarding claims 12, 58, 67 and 76, Surace, as applied to claims 10, 56, 65 and 74, in view of Crawford fails to teach "information defining a speed of voice for the virtual host". Sakurai teaches information enabling [i.e., defining] a speed of voice for the host equipment [i.e., virtual host] (col.3, lines 33-49). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace in view of Crawford to allow information defining a speed of voice as taught by Sakurai. The motivation for the modification is to have the information defining a speed of voice in order to provide the specific characteristic.

14. Claims 13, 59, 68 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. in view of Crawford further in view of Eikeland (U.S. Patent No. 5,768,508).

Regarding claims 13, 59, 68 and 77, Surace, as applied to claims 10, 56, 65 and 74, in view of Crawford fails to teach "information defining a background for the virtual host". Eikeland teaches information defining a background for the client [i.e., virtual host] (col.7, lines 58-67, col.8, lines 37-40). Thus, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify Surace in view of Crawford to allow information defining a background as taught by Eikeland. The motivation for the modification is to have the information defining a background in order to provide the specific characteristic.

15. Claims 14, 60, 69 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. in view of Crawford further in view of Duffy et al. (U.S. Patent No. 5,911,043).

Regarding claims 14, 60, 69 and 78, Surace, as applied to claims 10, 56, 65 and 74, in view of Crawford fails to teach "information defining a sex for the virtual host". Duffy teaches information defining a sex for the user [i.e., virtual host] (col.1, lines 63-67, col.2, lines 1-12). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace in view of Crawford to allow information defining a sex as taught by Duffy. The motivation for the modification is to have the information defining a sex in order to provide the specific characteristic.

16. Claims 15, 61, 70 and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. in view of Crawford further in view of Crawford in view of Bijl et al. (U.S. Patent No. 6,366,882).

Regarding claims 15, 61, 70 and 79, Surace, as applied to claims 10, 56, 65 and 74, in view of Crawford fails to teach "information defining an accent for the virtual host". Bijl teaches information defining an accent for the user [i.e., virtual host] (col.14, lines 6-13). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify Surace in view of Crawford to allow information defining an accent as taught by Bijl. The motivation for the modification is to have the information defining an accent in order to provide the specific characteristic.

17. Claims 16-18, 62-64, 71-73 and 80-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. in view of Crawford further in view of Wigan et al. (U.S. Patent No. 4,531,184).

Regarding claims 16, 62, 71 and 80, Surace, as applied to claims 10, 56, 65 and 74, in view of Crawford fails to teach "information defining a formality level of a conversational style for the virtual host". Wigan teaches information defining a formality level of a conversational facility [i.e., style] for the subscriber [i.e., virtual host] (col.31, lines 32-67, col.32, lines 1-67, col.33, lines 1-67, col.34, lines 1-3). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace in view of Crawford to allow information defining a formality level of a conversational style as taught by Wigan. The motivation for the modification is to have the information defining a conversational style in order to provide the specific characteristic.

Regarding claims 17, 63, 72 and 81, Surace, as applied to claims 16, 62, 71 and 80, teaches updating [i.e., adjusting] the prompt [i.e., conversational-type] based on the user interaction history information (page 8, paragraphs 0102, 0103).

Regarding claims 18, 64, 73 and 82, Surace, as applied to claims 17, 63, 72 and 81, teaches changing the formality level according to a level of user experience with the voice user interface (abstract; page 1, paragraph 0007, page 8, paragraphs 0102, 0103).

18. Claims 83-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surace et al. in view of Crawford further in view of Eisen et al. (U.S. Patent No. 4,964,077).

Claims 83, 85 and 87 are rejected for the same reasons as discussed above with respect to claim 10. Furthermore, Surace teaches updating [i.e., adjusting] a prompt [i.e., conversational style] of the virtual host and adjusting the conversational style (page 8, paragraphs 0102, 0103).

However, Surace in view of Crawford does not specifically teach querying the user for permission to adjust a conversational style if user interaction history reaches a threshold and adjusting the conversational style if the user grants permission. Eisen teaches querying the user for approval [i.e., permission] to adjust a help/dialog [i.e., conversational style] if user interaction history reaches a threshold and adjusting the conversational style if the user grants permission (fig.4; col.7, line 46-col.8, line 7). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Surace in view of Crawford to incorporate the feature of querying the user for permission to adjust a conversational style if user interaction history reaches a threshold and adjusting the conversational style if the user grants permission as taught by Eisen. The motivation for the modification is to do so in order to provide a secured

storage for a user prompt/dialog such that no body can change the prompt/dialog without the user permission.

Claims 84, 86 and 88 are rejected for the same reasons as discussed above with respect to claim 18.

### ***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MD S. ELAHEE whose telephone number is (571)272-7536. The examiner can normally be reached on MON-FRI.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FAN TSANG can be reached on (571)272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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